

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2010-070037

02/28/2014

HONORABLE JOSE S. PADILLA

CLERK OF THE COURT

D. Berkland

Deputy

IN RE THE MARRIAGE OF
CHRISTOPHER L SHUMWAY

CHRISTOPHER L SHUMWAY
3290 E LARK DR
CHANDLER AZ 85286

AND

NATALYA YUROVA

NATALYA YUROVA
7620 E MCKELLIPS RD
APT 467
SCOTTSDALE AZ 85257

AMANDA J PYPER
AG-CHILD SUPPORT-NORTH
CENTRAL OFFICE
CITS - OTHER
CONCILIATION SERVICES-NW
FAMILY COURT SERVICES-CCC

MINUTE ENTRY

Courtroom 122 – NWR

11:46 a.m. This is the time set for Return Hearing re: Petitioner's Petition to Modify Parenting Time and Child Support (IV-D Case). Petitioner is present appearing on his own behalf. Respondent is present appearing telephonically on her own behalf. Also present, appearing from the Office of the Court Interpreter, is interpreter, Rimma Tsiouris, who will assist Respondent by translating today's proceedings into the Russian language.

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A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Christopher Shumway is sworn.

The Court interpreter is sworn by the clerk.

Discussion ensues between the Court and the parties with regard to service upon Respondent/Mother.

Respondent/Mother confirms her current physical address as: 1607 West Beaudien Drive, Phoenix, Arizona.

LET THE RECORD REFLECT Petitioner/Father presents the Court with a document from the Maricopa County Sheriff's Office indicating Respondent/Mother was not able to be served at 1607 West Beaudien Drive, Phoenix, AZ.

Pursuant to the discussion held,

THE COURT FINDS Petitioner/Father's Petition to Modify Parenting Time and Child Support has not been properly served.

LET THE RECORD REFLECT the Court advises Petitioner/Father that in the event he mails his Petition and Notice to Appear to Respondent/Mother it must be by registered mail, return receipt requested, restricted delivery, to addressee only.

In view of Respondent/Mother acknowledging that she resides at 1607 West Beaudien Dr., Phoenix, AZ,

IT IS ORDERED that the Maricopa County Sheriff's Office may serve Respondent/Mother at her physical address, 1607 West Beaudien Drive, Phoenix, AZ, by tacking, stapling, or in any way securing a copy of Petitioner's Petition to Modify Parenting Time and Child Support and Order to Appear to Respondent/Mother's physical address. In the alternative the documents may be served upon any person of suitable age who may answer the door.

REFERRAL TO CONCILIATION SERVICES RE: CHILD INTERVIEW

On the Court's own motion,

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IT IS ORDERED referring the matter to Conciliation Services for a Family Court Conciliator to interview minor child: Julia Shumway, dob: 05/27/2003.

IT IS FURTHER ORDERED setting the *NON-CONFIDENTIAL* Child Interview on April 23, 2014 at 1:30 p.m. (45 minutes allotted) in Conciliation Services at the Maricopa County Superior Court, Northwest Regional Court Center, 14264 W. Tierra Buena Lane, Surprise, Arizona 85374, Phone: 602-372-0492.

IT IS FURTHER ORDERED that the *NON-CONFIDENTIAL* Child Interview shall be conducted on the following basis:

1. Scope. The Court anticipates that the Conciliator may address statutory issues set forth in A.R.S. § 25-403(A)(1),(A)(2), (A)(3), (A)(4), and (A)(5) and all other matters deemed relevant by the Conciliator.

IT IS FURTHER ORDERED that the parent who has the child in their care on the day of the child interview shall be responsible for transporting the minor child to the above scheduled Child Interview.

IT IS FURTHER ORDERED as follows:

1. Neither parent shall discuss the interview with the child other than telling her she will be asked questions by court personnel.
2. There shall be absolutely no coaching of the child by either parent.
3. Neither parent shall discuss the child interview report with the child.
4. The parties shall comply with all instruction given by Conciliation Services.

WARNING: You will have to pay a \$100 fee if you do not bring the minor child to the Child Interview as ordered. If you need to reschedule, the party responsible for bringing the child to the interview must notify Conciliation Services and receive permission to reschedule at least three full court days before the session.

NOTICE: In accordance with the Arizona Rules of Family Law Procedures, specifically Rule 68, subsection B, each party has the right to request that reasonable procedures be in place at Mediation to protect a victim of domestic violence. Please call Conciliation Services to request arrangements. If you wish to request a Waiver of Attendance, you must file your written request with the assigned judicial officer on the case.

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IT IS FURTHER ORDERED affirming the designation of Petitioner/Father as the child's primary residential parent pursuant to the Court's Order of September 2013.

IT IS FURTHER ORDERED affirming the parenting plan currently in full force and effect.

IT IS FURTHER ORDERED that the child shall remain enrolled at her current school through the remainder of the 2013-2014 school year.

Respondent/Mother makes an oral motion for attorney's fees.

IT IS ORDERED denying Respondent/Mother's request for attorney's fees.

Respondent/Mother requests permission to travel outside of Arizona without Petitioner/Father's permission.

IT IS ORDERED denying Respondent/Mother's request to travel with the child without Petitioner/Father's permission. Additionally, Respondent/Mother shall not travel outside of the United States with the parties' minor child.

IT IS FURTHER ORDERED that Respondent/Mother shall not take the child out of Arizona without the written permission of Petitioner/Father or the Court. All requests to travel with the child shall require a ten-day advance notice to Petitioner/Father along with a complete travel itinerary. Prior to leaving the state, Respondent/Mother shall relinquish her passport and the child's passport to the Clerk of Court, and shall obtain a receipt from the Clerk of Court indicating the passports were turned in to be held until such time as Respondent/Mother and the child return to Arizona.

Petitioner/Father makes an oral motion for relief of his current child support obligation.

Discussion is held with regard to Petitioner/Father's motion.

IT IS ORDERED vacating the child support order which directs Petitioner/Father to pay child support to Respondent/Mother.

EVIDENTIARY HEARING SET

[set premised on Father having served Mother with his Petition to Modify by March 28, 2014]

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IT IS FURTHER ORDERED setting the above-captioned case for **Evidentiary Hearing re: Petitioner's Petition to Modify Parenting Time and Child Support on July 16, 2014 at 2:00 p.m.** (2 hours allotted) before the Honorable Jeanne Garcia, located at 14264 West Tierra Buena Lane, Courtroom 122, Surprise, Arizona 85374.

IT IS FURTHER ORDERED directing the Office of the Court Interpreter to provide a Russian language interpreter at the time of the hearing, on July 16, 2014 at 2:00 p.m.

Each party is directed to provide the Court with their recent paycheck stubs, W-2's, and tax returns at the time of the hearing.

Each party will be allowed 1/2 of the available time to present all direct, cross, redirect examination and any argument. The parties are advised the Court will utilize a portion of the time for its ruling. The parties are expected to complete the hearing in the allotted time, and the time will not be extended absent a motion granted by the Court and filed at least thirty (30) days prior to hearing setting forth good cause to extend the time and specifically including a list of each and every witness who will testify and an estimate of time and subject matter of the expected testimony for each witness.

FAMILY COURT PRE-TRIAL STATEMENT [FORM DRPTS 16F]

IT IS FURTHER ORDERED that each party shall fully complete and file a Family Court Pre-Trial Statement [form DRPTS 16f] in proper form without argument, narrative statements or other documents, and provide a copy to the adverse party and to this Division at least 5 judicial days before the Conference. The Court is required to consider the reasonableness of each party's positions, including the failure to take a position, in any subsequent requests for attorney's fees made pursuant to A.R.S. §§ 25-324 and 12-349. The Resolution Statement may be obtained through the Self Service Center. A form may be downloaded at:
<http://www.superiorcourt.maricopa.gov/superiorcourt/self-servicecenter/forms/familycourt/>

IT IS FURTHER ORDERED that the Family Court Pre-Trial Statement [form DRPTS 16f] shall include:

1. A current Affidavit of Financial Circumstances.
2. If there are disputed custody, access or visitation issues, a specific proposal for custody and parenting time.

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3. If there are disputed child support issues, a current Parent's Worksheet for Child Support Amount completed by each party pursuant to the Statewide Child Support Guidelines.

4. If the parties have a natural or an adopted minor unemancipated child in common, proof of compliance with the Parental Education Program requirements of A.R.S. §25-351 et seq.

5. If there is a disputed issue regarding the payment of attorney's fees by either party, an affidavit of the attorney's fees claimed submitted in accordance with the requirements of Rule 78(D), *Arizona Rules of Family Law Procedure*.

IT IS FURTHER ORDERED that the failure of counsel or any party to appear at the time of trial, or to timely present the Family Court Pre-Trial Statement [form DRPTS 16f] in proper form, including each and every attachment required, shall, in the absence of good cause shown, result in the imposition of any and all available sanctions pursuant to Rule 76(D), *Arizona Rules of Family Law Procedure* and Local Rules 6.2(e) and 6.9(b), including proceeding to hear this matter by default based upon the evidence presented by the appearing party.

EXHIBITS

IT IS FURTHER ORDERED that, if either party has exhibits to be marked, counsel or the parties shall deliver said exhibits to the Clerk **at least five (5)** business days prior to trial. Duplicate exhibits shall not be presented. The parties shall also provide the Court and the adverse party with a separate copy of all exhibits.

1. Counsel and/or the parties shall submit all exhibits to this division by 5:00 p.m. on July 9, 2014. Exhibits shall not be filed at the Clerk of Court filing counter.

2. The exhibit packet shall contain a title page which states the case number, whether the exhibits are Petitioner's or Respondent's and the date for the hearing. Failure to clearly indicate which party is presenting the exhibits may result in the exhibits being marked incorrectly or not being marked at all.

3. Each exhibit shall be stapled if it contains more than one page. Each exhibit shall be clearly separated from the other exhibits, preferably by placing a colored page in between each exhibit. Do not staple the colored pages to the exhibits. Do not write or type on the colored pages. The clerk will reuse the colored pages if they are left blank. Failure to clearly separate each exhibit may result in the exhibits being marked differently than counsel and/or the parties intended, such as multiple exhibits being marked as one exhibit.

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4. The exhibits shall be marked in the order received. For example, if Respondent's exhibits are received first, Respondent's exhibits will be marked first, i.e., Respondent's exhibits 1 through 5, and Petitioner's exhibits will follow Respondent's exhibits in number, i.e., Petitioner's exhibits 6 through 10.

5. Duplicate exhibits shall not be presented.

6. The parties shall provide the adverse party with a separate copy of all exhibits.

Information regarding exhibits for parties not represented by counsel:

The Court does not automatically review exhibits. Each party will need to offer his/her exhibits into evidence during the hearing by stating to the Court that he/she is offering exhibit(s) 1, 2, 3, etc. The party will need to explain the relevance of each exhibit to the Court. Exhibits that are not received into evidence during the hearing will be returned to the party at the conclusion of the hearing without the Court reviewing the exhibit(s).

IT IS FURTHER ORDERED that the parties shall indicate in the Family Court Pre-Trial Statement [form DRPTS 16f] which exhibits they have agreed will be admissible at hearing as well as any specific objections that will be made to any exhibit if offered at hearing which is not agreed to be admitted. Reserving all objections to the time of hearing will not be permitted. At the time of hearing all exhibits that the parties have agreed will be admitted and all exhibits for which no specific objection is stated in the Family Court Pre-Trial Statement [form DRPTS 16f] shall be summarily admitted.

NOTICE

You may request conclusions of fact and law on the following issues, if they are contested: the issues of child custody, relocation requests, spousal maintenance, community property, community debt, and child support. To request conclusions of fact and law, you must file a written request with the court before the trial or the evidentiary hearing. If you make a written request before the trial or evidentiary hearing, the court will make conclusions of fact and law as part of the final decision.

If any party asks the court to make findings of fact and law on any issue, each party must file written proposed findings of fact and law on those issues. The proposed findings also must be submitted in an electronic form that is editable, preferably Microsoft Word. The proposed findings must be submitted with the Pretrial Statement.

SETTLEMENT

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IT IS FURTHER ORDERED in the event a full settlement is reached prior to the time of trial, the parties or counsel, if represented, shall present the formal written Judgment or the agreement signed and notarized by all parties, prior to 5:00 p.m. the **day prior to** the scheduled hearing[if set on the Court's morning calendar the following day, e.g., 9:00 to 11:55 a.m.] or not later than 9:00 a.m. on the day of hearing[if the hearing is set on the Court's afternoon calendar, e.g., 1:30 to 4:55 p.m.].

In the event the agreement has not been reduced to writing, then in that event, all parties and their counsel, if represented, shall appear at the time designated for hearing to recite the agreement on the record and have it entered as the order of the court pursuant to *Rule 69, (Arizona Rules of Family Law Procedure hereinafter AzRFLP)*.

If the signed Judgment or agreement is not received by the Court pursuant to these guidelines, and the parties and/or their respective counsels, if any, fail to appear as ordered, the Court shall dismiss the case in its entirety, without prejudice and the matter **will not** be reinstated but for the most compelling of reasons. See *Rule 70(B)*.

POSTPONEMENTS AND SCHEDULE CHANGES

Continuances, postponements and schedule changes will not ordinarily be granted. Any postponement or change will be granted only in accordance with appropriate rules, based on a showing of good cause, and requires the express written approval of the Court.

DISCLOSURE/DISCOVERY

IT IS ORDERED with regard to discovery and disclosure requirements:

1. Both parties shall complete all disclosure requirements required by Rules 49 and 50, *Arizona Rules of Family Law Procedure*, including an exchange of all relevant information, documents and exhibits on or before **July 3, 2014**.

2. All depositions and discovery contemplated by Rules 49 through 65, *Arizona Rules of Family Law Procedure*, shall be completed and any motions regarding discovery shall be filed no later than **June 27, 2014**.

3. Counsel and both parties shall personally meet, face to face, at least ten (10) days prior to hearing to conduct settlement discussions, prepare a Family Court Pre-Trial Statement [form DRPTS 16f], exchange all exhibits, and discuss the resolution and narrowing of all procedural and substantive issues in this case.

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4. The parties shall promptly comply with all requests for relevant information in this case. In this regard, the parties shall sign all necessary consents and releases reasonably required to obtain any relevant documents or records from any financial institution, company, business, medical or health care provider or employer possessing any relevant information.

If a party is forced to incur attorney's fees or other costs to obtain documents or records by subpoena or other legal process after reasonable request of the other party to obtain such information in a more efficient or economical manner, the Court will consider a request for payment or reimbursement of such fees and costs at the time of trial.

IF ONLY ONE PARTY APPEARS, THE COURT MAY ENTER A DEFAULT AGAINST THE ABSENT PARTY, AND ALLOW THE PARTY THAT APPEARS TO PROCEED BY DEFAULT AND/OR ISSUE A CIVIL ARREST FOR THE PARTY WHO FAILS TO APPEAR. IF BOTH PARTIES FAIL TO APPEAR, THE ENTIRE CASE MAY BE DISMISSED, WITHOUT FURTHER NOTICE TO EITHER PARTY.

12:15 p.m. Matter concludes.

LATER:

IT IS ORDERED that within ten (10) days of today's date, Respondent/Mother shall provide proof to the Court of her illness, which she stated is the reason she could not be present in court this date.

After further review by the Court,

IT IS ORDERED vacating the Order set forth above stopping the child support order.

CHILD SUPPORT ORDER

THE COURT FINDS that the relevant financial factors required to be included, and the discretionary allowances and adjustments which the Court will allow, for a current calculation of child support pursuant to the Arizona Child Support Guidelines are set forth in the Child Support Worksheet filed this date as Exhibit A, which the Court hereby incorporates and adopts as its findings with respect to child support. Accordingly,

IT IS ORDERED that Father shall pay to Mother as and for child support the sum of **\$264.35 per month commencing on November 1, 2013**, all in accordance with the formal written

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Child Support Order, which is signed by the Court on February 28, 2014 and filed (entered) by the clerk this date.

Obligations of child support terminate when the child attains the age of 18 years or is otherwise emancipated, but in the event any child attains the age of 18 years while attending high school, support shall continue to be provided during the period in which said child is actually attending high school but only until the child reaches 19 years of age. If the parties have more than one child, the amount of child support owed is not automatically reduced as each child is emancipated; rather the parties must request a modification of the child support order in writing and pursuant to the Rules of Family Law Procedure. Provision for health insurance and noninsured health expenses for the child, as provided below, shall be deemed to be additional child support and shall be enforceable as such.

LET THE RECORD REFLECT an Income Withholding Order is initiated electronically by the above-named deputy clerk. Confirmation # **414284**.

IT IS FURTHER ORDERED that at any time an Order of Assignment is not paying the child support obligation in full, Petitioner/Father shall make full and timely payments directly to the Support Payment Clearinghouse, P.O. Box 52107, Phoenix, AZ 85072-2107.

IT IS FURTHER ORDERED that Father shall provide medical insurance for the benefit of the parties' minor child, and shall provide an insurance card and claim filing information/forms to the other parent. All medical, dental and orthodontia expenses incurred for the health and protection of the child not covered by insurance shall be paid **84% by Father** and **16% by Mother**.

IT IS FURTHER ORDERED directing that the party incurring uncovered/uninsured medical/dental expenses shall send a copy of the bill with proof of payment to the other party within 180 days of payment of the uncovered expense. The party receiving the bill shall reimburse the sending party for their percentage of the uncovered expense within forty-five (45) days of receipt of the bill.

TAX EXEMPTION

IT IS FURTHER ORDERED that Father shall be entitled to utilize the federal tax exemption applicable to the parties' child for all federal and state income tax purposes in the 2014 tax year and in four out of every five tax years hereafter as long as he is current in the payment of all court ordered child support obligations for the current calendar year and any court ordered arrearage payments due during that calendar year by December 31 of each year. If these conditions are met, Mother shall execute the necessary IRS forms to transfer the exemptions to Father. If not, Mother shall be entitled to claim the exemptions.

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IT IS FURTHER ORDERED that Mother shall be entitled to utilize the federal tax exemption applicable to the parties' child for all federal and state income tax purposes in the 2016 tax year and in one out of every five tax years hereafter.

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, *Arizona Rules of Family Law Procedure*, this 28th day of February 2014.

/s/ Hon. Jose S. Padilla

Honorable Jose S. Padilla
Superior Court Judge

FILED: Child Support Worksheet – Exhibit A
Child Support Order

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov>.